

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference C09048	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/AU2009/000262	International filing date (day/month/year) 4 March 2009	(Earliest) Priority Date (day/month/year) 4 March 2008
Applicant: RESMED LTD. et al		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 7 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of:

☒ The international application in the language in which it was filed.

☐ A translation of the international application into translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)), which is the language of a

b. ☐ This international search report has been established taking into account the rectification of an obvious mistake authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II).

3. ☒ Unity of invention is lacking (See Box No. III).

4. With regard to the title,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. I

☒ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:

3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a)

Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

See Supplemental Box I

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying additional fees, this Authority did not invite payment of additional fees.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:

4. ☒ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.: 1-7

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest and, where applicable, the payment of a protest fee.
- ☐ The additional search fees were accompanied by the applicant's protest but the applicable protest fee was not paid within the time limit specified in the invitation.
- ☐ No protest accompanied the payment of additional search fees.

A. CLASSIFICATION OF SUBJECT MATTER

Int. Cl.

A61M 16/06 (2006.01)

A62B 9/00 (2006.01)

A62B 7/00 (2006.01)

A62B 18/08 (2006.01)

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum: documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

GOOGLE, PATENT LENS, EPOQUE: EPODOC & WPI: IPC & EC: A61M 16/-, A62B 7/-, A62B 18/08 and Keywords (Mask, Respiratory, Apnoea, Snoring, Cushion, Support, Pad, Foam, Sponge) and similar terms.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6412487 B1 (GUNARATNAM et al.) 02 July 2002 See Abstract, Col.4 - Lines 18-20, Figs.6a-6e, Col.2 - Lines 28-41	1-7
X	US 7021311 B2 (GUNARATNAM et al.) 04 April 2006 See Abstract, Col.5 - Lines 28-30, Figs. 6a-6e, Col.5 - Lines 39-48	1-7
X	US 7207334 B2 (SMART) 24 April 2007 See Abstract, Col.2 - Lines 43-50, Col.3 - Lines 17-21	1-7
X	US 2003/0075180 A1 (RAJE et al.) 24 April 2003 See Abstract, Para [0011], Para [0231], Para [0183]	1-7

☒ Further documents are listed in the continuation of Box C☒ See patent family annex

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent but published on or after the international filing date

"I," document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&" document member of the same patent family

Date of the actual completion of the international search
01 June 2009Date of mailing of the international search report
09 JUN 2009Name and mailing address of the ISA/AU
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INTERNATIONAL SEARCH REPORT

International application No.

PCT/AU2009/000262

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 2004/0118406 A1 (LITHGOW et al.) 24 June 2004 See Abstract, Figs. 8-8B, 11-11B, Para [0118], Figs. 1-5B	1-7
X	WO 2005/118040 A1 (RESMED LIMITED) 15 December 2005 See Abstract, Para [0010], [0024] & [0028]	1-7
P,X	US 2008/0257354 A1 (DAVIDSON et al.) 23 October 2008 See Whole Document	1-7

Supplemental Box I

(To be used when the space in any of Boxes I to IV is not sufficient)

Continuation of Box No: III

This International Application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept.

In assessing whether there is more than one invention claimed, I have given consideration to those features which can be considered to potentially distinguish the claimed combination of features from the prior art. Where different claims have different distinguishing features they define different inventions.

This International Searching Authority has found that there are different inventions as follows:

- Claims 1-7 are directed to a cushion for a respiratory mask. It is considered that the clip portion and an interfacing portion wherein the interfacing portion is constructed from a foam material and the clip portion is narrower than the interfacing portion comprises a first distinguishing feature.
- Claims 8-11 are directed to a mask system comprises a common frame and at least a first cushion constructed from foam and a second cushion constructed from silicone. It is considered that the first and second cushions each structured to removably attach to the frame comprise a second distinguishing feature.

PCT Rule 13.2, first sentence, states that unity of invention is only fulfilled when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features.

PCT Rule 13.2, second sentence, defines a special technical feature as a feature which makes a contribution over the prior art.

Each of the abovementioned groups of claims has a different distinguishing feature and they do not share any feature which could satisfy the requirement for being a special technical feature. Because there is no common special technical feature it follows that there is no technical relationship between the identified inventions. Therefore the claims do not satisfy the requirement of unity of invention *a priori*.

This Annex lists the known "A" publication level patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document Cited in Search Report		Patent Family Member		
US	6412487	AU 12454/97	AU 14892/00	AU 16355/00
		AU 16811/02	AU 26505/00	AU 34293/97
		AU 42476/99	AU 49012/00	AU 52005/00
		AU 52007/00	AU 2004205283	CA 2261790
		CA 2298129	CA 2470671	CA 2519452
		DE 29724224U	EP 0956069	EP 1027905
		EP 1187647	EP 1187648	EP 1187649
		EP 1187650	EP 1479406	EP 1525895
		EP 1621225	EP 1625868	EP 1637175
		EP 1640034	EP 1741461	EP 1985327
		HK 1071083	JP 2000279520	JP 2004041779
		JP 2005111287	JP 2006061703	NZ 513052
		NZ 526165	NZ 526166	NZ 526167
		NZ 526168	NZ 542849	NZ 543939
		NZ 556540	US 6112746	US 6357441
		US 6374826	US 6439230	US 6491034
		US 6513526	US 6532961	US 6581602
		US 6634358	US 6691707	US 6701927
		US 6796308	US 6860269	US 6871649
		US 7021311	US 7066178	US 7069933
		US 7089939	US 7174893	US 7178527
		US 7185652	US 7207334	US 7234466
		US 7243651	US 7487777	US 7523753
		US 2002/0005198	US 2002/0005200	US 2002/0023649
		US 2002/0023650	US 2002/0029781	US 2002/0074001
		US 2002/0083948	US 2002/0096176	US 2002/0104540
		US 2002/0108613	US 2002/0153012	US 2002/0157672
		US 2002/0174867	US 2002/0174868	US 2003/0034034
		US 2004/0025881	US 2004/0094159	US 2004/0099272
		US 2004/0134497	US 2005/0022818	US 2006/0076017
		US 2006/0107960	US 2006/0130843	US 2006/0144405
		US 2006/0201515	US 2006/0289010	US 2007/0107735

		US	2007/0261697	US	2009/0114227	WO	2000/078381
		WO	2000/078382	WO	2000/078383	WO	2000/078384
		WO	1998/004310				
US	2003/0075180	AU	2003257270	AU	2003257271	AU	2003257273
		AU	2003257274	AU	2008258157	CN	1681551
		CN	1681552	CN	1681553	CN	1688358
		EP	1334742	EP	1539288	EP	1545673
		EP	1545674	EP	1545675	JP	2003175106
		US	6823869	US	7011090	US	7216647
		US	7316230	US	7318439	US	7523754
		US	2004/0112384	US	2004/0112385	US	2004/0112387
		US	2004/0118406	US	2005/0081858	US	2006/0102185
		US	2007/0157934	US	2008/0099014	US	2008/0178885
		WO	2004/022144	WO	2004/022145	WO	2004/022146
		WO	2004/022147				
WO	2005/118040	EP	1755719	US	2008/0006277		
US	2008/0257354	CN	101301505	EP	1982740		

Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.

END OF ANNEX